

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

KURT SPENCER and CATHERINE  
SPENCER,

Plaintiffs,

vs.

DR. BRAD BLACK, Lincoln County  
Health Officer; KATHI HOOPER,  
Lincoln County Health Board Director;  
and LINCOLN COUNTY, a political  
subdivision,

Defendants.

CV 20-12-M-KLD

ORDER

On January 31, 2020, Defendants Dr. Brad Black, Kathi Hooper, and Lincoln County removed this action from the Montana Nineteenth Judicial District Court, Lincoln County, pursuant to 28 U.S.C. § 1441(a) based on federal question jurisdiction under 28 U.S.C. § 1331. (Doc. 1). Defendants had filed a motion to dismiss in state court, and that motion was still pending at the time of removal. (Doc. 7 at 1-2).

On March 6, 2020, Plaintiffs Kurt Spencer and Catherine Spencer filed a motion dismiss this action without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2). (Doc. 10). Defendants initially opposed Plaintiffs' motion, but

have since changed their position. Defendants explain that that they initially opposed dismissal without prejudice because they mistakenly believed they had filed a motion to dismiss with this Court following removal, and preferred to wait for a ruling on that motion. (Doc. 14 at 2). Upon further consideration, Defendants make clear they do not oppose dismissing this action without prejudice. (Doc. 14 at 2). Accordingly,

IT IS ORDERED that Plaintiffs' Motion to Dismiss pursuant to Fed. R. Civ. 41(a)(2) is GRANTED and this matter is DISMISSED without prejudice.

DATED this 15<sup>th</sup> day of April, 2020.



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Kathleen L. DeSoto  
United States Magistrate Judge